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National Transport Commission
Att: HVNL Review Project Team
Level 3, 600 Bourke Street
MELBOURNE VIC 3000

SUBMISSION TO THE VEHICLE STANDARDS AND SAFETY ISSUES PAPER

The National Heavy Vehicle Regulator (NHVR) welcomes the opportunity to respond to the Heavy Vehicle National Law (HVNL) Review Issues Paper on *Vehicle Standards and Safety*.

Since assuming responsibility for heavy vehicle standards and performance based standards (PBS), the NHVR has worked closely with industry to improve regulatory efficiency. This includes a reduction in processing times for PBS design approvals by up to three weeks for the vast majority of applications, and a reduction in vehicle standards permit volumes by over 75 per cent.

Despite these achievements, there are clear improvements that could be made to the HVNL in order to enhance the NHVR's ability to better carry out its role as a risk-based and responsive regulator for the industry and road users.

The NHVR has identified a number of key areas in our submission, with a particular focus on the themes:

- Better matching vehicle standards requirements to the operational reality on the road.
- Ensuring national and local policy settings better support the uptake and adoption of safer and more productive vehicles, rather than discourage them.

Collectively, we all have a responsibility to ensure the heavy vehicle task can meet the country's growing freight demand, which means delivering more goods with less vehicles in a safe manner. The established PBS scheme is the platform that we should learn and leverage from to achieve this goal.

This submission identifies a number of HVNL and policy changes that if implemented would help ensure the PBS scheme is positioned to deliver the outcomes our industry and the community expects for the future.

Yours sincerely



Sal Petrocchio
Chief Executive Officer

Vehicle Standards and Safety – NHVR's submission

NHVR key opportunities for improvement:

The NHVR has identified a number of opportunities that if implemented would enable the heavy vehicle standards and PBS sections of the HVNL to operate more effectively. These include:

Vehicle Standards:

- Opportunity One: Create an efficient regulatory structure that enables the NHVR to respond as a modern and effective regulator.
- Opportunity Two: Apply a risk-based approach to non-standard vehicles to remove unnecessary regulatory requirements.
- Opportunity Three: Help operators comply with Australian Design Rules by providing practical options for demonstrating compliance.
- Opportunity Four: Recognise consistent inspection criteria to provide certainty to industry and authorised officers.

Performance Based Standards:

- Opportunity Five: Deliver a modern approach to PBS (PBS 2.0) to encourage increased adoption of safer and more productive vehicles.

Vehicle Safety:

- Opportunity Six: Provide the ability for the NHVR to address safety issues relating to manufacturers and repairers.
- Opportunity Seven: Adopt a risk-based approach to defects to reflect the severity of the defect and encourage industry to identify and self-manage non-compliances.

Administrative improvements to HVNL:

- Opportunity Eight: Improve the use of definitions to help make the HVNL easier to interpret and apply.
- Opportunity Nine: Reduce the duplication of common processes.

Industry engagement:

The NHVR has prepared a response to the *Vehicle Standards and Safety* Issues Paper considering the feedback from the heavy vehicle industry, as well as experience and insight gained by the NHVR over the past five years in managing the vehicle standards, performance based standards and compliance functions.

The NHVR held a workshop with peak industry representatives through the Industry Reference Forum (IRF). Key themes relevant to the HVNL Review were discussed, including the regulatory outcomes for 'Safe Vehicles'.

The NHVR also utilised the dedicated technical working group, comprised of chief technical officers from leading industry associations to consult on this process.

Vehicle Standards

Opportunity 1: Create an efficient regulatory structure that enables the NHVR to respond as a modern and effective regulator

Recommendation:	Move administrative provisions for vehicle and performance based standards from the Act into subordinate legislation. Move technical provisions for vehicle and performance based standards from the Act into subordinate legislation and statutory instruments that are made and approved by the NHVR.
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The standard legislative hierarchy requires that an Act contain the necessary heads of power, with administrative and technical provisions provided in regulations (and other statutory instruments).

The HVNL currently divides the administrative and technical provisions relating to heavy vehicle standards between the Act, the *Heavy Vehicle (Vehicle Standards) National Regulation* (the VS Regulation) and the *Heavy Vehicle (General) National Regulation* (the General Regulation).

Amendments to very minor and administrative details that are contained in the Act (such as the classification of some minor changes to vehicles) need to proceed through the time consuming and onerous parliamentary processes and can take two to three years to commence. Even amendments to regulations are still often linked to amendments of the Act and are regularly delayed as a result. These excessive timeframes not only limit the NHVR's ability to regulate effectively but are a key source of frustration for industry.

Moving the administrative and technical provisions for vehicle and performance based standards into subordinate instruments will address these issues as well as reduce pressure on parliamentary time, remove the need for parliament to consider technical details and to deal with rapidly changing or uncertain situations, including emergencies.

Further, due to the continually changing nature of vehicle design, construction and use, the technical standards that regulate these elements need to be routinely reviewed. Effectively administering and maintaining these technical standards requires detailed engineering and technical knowledge. Given the regular need for change and the expertise required to maintain the technical elements of the vehicle and performance based standards, the NHVR is of the opinion that these standards should be moved to subordinate instruments that are made by the NHVR.

The NHVR respects the necessary oversight and authority of responsible ministers and the parliamentary process. Appropriate oversight of this delegated legislation-making process could be provided through similar mechanisms used in Queensland, such as (but not limited to) requiring the instrument be drafted by Parliamentary Counsel, to be tabled in parliament and subject to disallowance; and/or providing for automatic repeal of the instrument.

Example

Under the HVNL a modification scheme is established that requires modifications to be approved. Where a modification is a common modification, this approval can be issued by an accredited third party who has ensured that the modified vehicle complies with the standards approved by the NHVR. The standard approved is the NHVR Code of Practice for the Approval of Heavy Vehicle Modifications.

This Code, much like the technical standards set out in the VS Regulation, is a regulatory technical standard that outlines the minimum standards that must be met. This Code is authorised through the VS Regulation, in accordance with a head of power provided in the HVNL.

Opportunity 2: Apply a risk-based approach to non-standard vehicles to remove unnecessary regulatory requirements

Recommendation:

Remove sections 62(1)(a) and 70(1)(a) of the HVNL relating to granting of vehicle standards exemptions, and implement the risk management approach contained in sections 62(1)(b) and 70(1)(b).

The HVNL provides the ability for the NHVR to issue a vehicle standards exemption (permit) for non-standard vehicles. These exemptions can be issued in the following three circumstances:

1. trial experimental or prototype vehicles,
2. vehicles operating under permits or notices before commencement of the HVNL, and
3. where the task intended to be done by the vehicle cannot be done by a compliant vehicle^[1].

Due to the varied nature of the heavy vehicle task, the NHVR has, on many occasions, been required to refuse a permit application because it did not meet these exemption circumstances. This is despite the fact that in many of those cases, an exemption could have been issued (with appropriate conditions), which would not have resulted in any increased safety risk (see example below).

The NHVR considers these limitations to be unnecessarily restrictive and could be improved by providing the NHVR with the ability to undertake an appropriate risk-based assessment of non-standard vehicles to ensure the modifications don't impose an additional safety risk.

Example

It is common for authorised officers to identify non-compliances on vehicles that may have been present for a number of years but were not known to the operator or detected by regulators.

One such vehicle was a fertiliser spreader vehicle fitted with specialist equipment that exceeded rear overhang when it was first registered over 10 years earlier, but was never detected, known or issued with an exemption. Once detected by an authorised officer, the operator was required to either modify the vehicle (and incur significant expense), or obtain a permit.

The non-compliance for this vehicle was minor and potential safety risks could have been mitigated with simple conditions. However, due to the restrictive provisions, the application was rejected. This was not only a frustrating outcome for the operator but also the NHVR as it prevented the operation of a vehicle that could have operated safely.

^[1] Sections 62(1)(a) and 70(1)(a), *Heavy Vehicle National Law*

Opportunity 3: Help operators comply with Australian Design Rules by providing practical options for demonstrating compliance

Recommendation:	Amend the HVNL to provide the NHVR with the ability to determine in-service standards and guidelines, which can be accepted as a demonstration of compliance with the intent of the ADRs.
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The *VS Regulation* requires in-service vehicles (a vehicle that is operating in the market) to comply with the Australian Design Rules (ADRs) that applied when the vehicle was manufactured^[1].

While it is simple for non-modified vehicles to continue meeting the manufactured ADRs, there are complexities in practice when a vehicle has been modified outside of the manufacturer's specifications i.e. fitment of a bull bar, fitment of external sun visors or bug deflectors.

Currently, if a vehicle is modified, an operator is required to undergo intensive ADR laboratory testing, this is also the case if a vehicle is intercepted on the road and is detected as having been modified. This testing is unnecessary and impractical for the fitment of most basic components (i.e. sun visor) and in practice never occurs. The example below further highlights these difficulties.

The NHVR considers that compliance and safety outcomes could be improved by the development of standards and practical guidelines that are legally recognised under the HVNL and can be used by transport operators and compliance staff to easily assess whether a vehicle meets the intent of an ADR. This approach would also assist when prosecuting alleged breaches of the vehicle standards i.e. where evidence is required that a vehicle has failed testing to the standard set out in the ADR.

Example

A vehicle is produced by its manufacturer with low beam headlamps tested and approved to the relevant ADR. Once in-service, the operator wishes to fit a bull bar. The bull bar potentially impacts on the performance of the headlamps, so the operator and modifier are required to re-verify compliance with the ADR.

The ADR headlamp requirements are a complex standard spread across two ADRs and require laboratory testing. This is impractical for a modifier or a vehicle operator to do in-service. If the NHVR intercepts the vehicle, full ADR testing would be required to determine whether the vehicle was defective or not.

^[1] Schedule 1, Sections 1 and 2, *Heavy Vehicle (Vehicle Standards) National Regulation*

Opportunity 4: Recognise consistent inspection criteria to provide certainty to industry and authorised officers

Recommendation: The HVNL should be amended to prescribe that (in addition to the current criteria), a vehicle is defective if it does not comply with the National Heavy Vehicle Inspection Manual.

The NHVR produced *National Heavy Vehicle Inspection Manual* (NHVIM)^[1] is a practical guide to assist authorised officers and industry with consistent criteria for heavy vehicle inspections. The NHVIM outlines the failure criteria that would result in a vehicle being considered defective.^[2] It also provides default specifications for components that can be used when the manufacturer's specifications are not available, which assists in readily determining compliance for older components or where manufacturer's specifications cannot be accessed.

While the NHVIM has been widely accepted by industry and regulators, including the Northern Territory, there is no legal recognition of the manual in the HVNL.

As such, if a failure criteria described in the NHVIM is found on a vehicle, an authorised officer is still required to defer to the VS Regulation or ADRs for the evidence necessary to substantiate a breach. This is inefficient and timely for the NHVR and industry. Recognising the NHVIM in the HVNL provides certainty to industry and the relevant regulator by setting a clear and transparent standard that can be complied with and enforced.

Example

An alternate approach was taken in the Queensland legislation^[3] that applied to heavy vehicles prior to the commencement of the HVNL, and is currently applied for light vehicles.

In these circumstances, a vehicle is generally considered to be defective for the same reasons contained in the HVNL. There is however an additional criteria making a vehicle defective if it 'does not comply with the Code of Practice—Vehicle Inspection Guidelines'. It should be noted that those guidelines are equivalent to the NHVIM.

^[1] www.nhvr.gov.au/nhvim

^[2] Section 525, *Heavy Vehicle National Law*

^[3] Section 7(1)(f), *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*

Performance Based Standards

Opportunity 5: Deliver a modern approach to PBS (PBS 2.0) to encourage increased adoption of safer and more productive vehicles

The Performance Based Standards (PBS) scheme was established in 2007 to improve heavy vehicle safety and productivity based on the principle of matching the right vehicle (performance of vehicle not prescriptive dimensions) to the right task.

PBS vehicles have been found to improve productivity by an average of 15 to 30 per cent and are involved in 46 per cent fewer major crashes per kilometre travelled, when compared with their conventional equivalent.

With the road freight task predicted to increase over the next 25 years, governments must identify and implement initiatives now that will facilitate this growth in a manner that ensures safety. Given the safety and productivity benefits the PBS scheme provides, it is positioned as the ideal platform to meet the growing freight demand.

Having administered the scheme for five years, the NHVR has gained important learnings and identified key areas that if implemented would further enhance the PBS scheme, particularly in relation to removing the current prescriptive barriers to scheme uptake, while driving innovative vehicle design. These key areas are outlined below.

The opportunities for improvement outlined in this submission are intended to complement the access and standards review work already underway that were recommendations from the NTCs PBS Marketplace Review.

Key areas of reform to deliver a modern PBS scheme (PBS 2.0):

Opportunity 5a: Moving to a modular PBS approach

Recommendation: Provide fleet interchangeability through a modular approval approach to PBS.

The PBS scheme is currently structured to approve whole combinations of vehicles (i.e. B-Double, Prime mover and semitrailer), rather than vehicle units. These approvals are very specific in that they apply to a truck towing a particular trailer. If that truck tows a different trailer that combination of vehicles also needs to be approved and listed on the approval.

The current scheme doesn't allow for simple fleet interchangeability even when it poses no additional safety risk - such as compatible prime movers swapped, for example, when a prime mover is out of service or unavailable for any reason.

The NHVR considers a 'modular approach' to vehicle approval would provide this increased flexibility and reduce costs and inconvenience to industry. This approach would enable vehicles to be individually signed off; allowing vehicles to be put in a combination without needing to be approved as a specific combination.

Opportunity 5b: Driving increased innovation through guaranteed access

Recommendation: Productive and safer vehicles need to be priority in access decisions

Despite the safety and productivity benefits that PBS vehicles deliver, obtaining road access approval from multiple road managers is still a major hurdle to increased PBS vehicle uptake. This was confirmed by the NTC during the recent PBS Marketplace Project.

At present, only PBS truck and dog combinations are provided widespread network access under a notice which has resulted in a large number of these vehicles being commissioned, when compared to other types of

innovative vehicles being commissioned under the scheme (for example; 1069 truck and dogs were approved in 2018, compared to 269 B-double approvals).

As outlined in the NHVR's submission to the NTC's paper on *Easy access to suitable routes*, the HVNL review should apply an envelope approach to network access, which groups similar vehicle characteristics into one class, rather than having multiple and unnecessary vehicle classes.

For example, a vehicle that been approved as a PBS Level 2A vehicle should be treated for access purposes as the same as the reference vehicle its performance has been compared to (26m B-double). However, the current state provides the B-double with broad network access and the PBS combination has limited access. This envelope approach would recognise the improved performance of PBS vehicles, rather than perpetuate the current state in which they are rejected because they are slightly different to conventional combinations.

Without an improved approach to network access that recognises the PBS scheme, we lose the widespread benefits that can be delivered for the economy and community by increasing the number of modern, safer and more productive vehicles on the road. The success of PBS truck and dog combinations has shown that when access restrictions and uncertainty are removed, a safer and more efficient PBS combination becomes the first choice of vehicle for industry.

Opportunity 5c: Transition of common/mature designs to HVNL

Recommendation:	That common PBS vehicles or combinations are removed from the PBS scheme and transitioned into the 'as of right' heavy vehicle fleet.
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The original intent of the PBS scheme was to allow operators to achieve increased productivity by matching the best vehicle design to their freight task. Indeed, PBS was designed to be a testing ground for new and innovative concepts in heavy vehicles, some of which would likely become common and could then be transitioned out of the PBS scheme and into regulation. To date however, no PBS vehicles have transitioned into the prescriptive heavy vehicle fleet.

A key issue is that requiring common or mature vehicle designs to go through the PBS approval process puts unnecessary burden on industry and the NHVR in a number of ways:

- Needing to obtain a PBS design approval and vehicle approval is a barrier for industry in terms of cost and time.
- Assessments of PBS applications that represent minimal risk represent over-regulation and are an inappropriate use of the NHVR's resources.
- Keeping vehicles in the PBS scheme limits their use by industry - issues relating to gaining network access continue to prevent the PBS scheme from delivering further efficiency and safety improvements.

In 2018-19, the NHVR processed approximately 1,600 applications for new or amended PBS vehicle approvals. Of these, two of the most mature and common PBS combination types, truck and dog combinations and prime mover semitrailer combinations, accounted for approximately 63 per cent and 12 per cent respectively. Taking into account the time for vehicle inspections, the certification submission process and the average 2 day processing time for the NHVR to issue a vehicle approval, this represents a significant investment of time from the NHVR and also a notable delay for an operator who is commissioning one of these mature design vehicles.

By moving common and mature designs to the prescriptive fleet, the NHVR and operators can then invest more time in introducing more innovative designs into the fleet.

For non-mature designs the NHVR recognises further efficiencies could be gained by adopting a tiered and risk-based approach for approvals (discussed in further detail in opportunity 5d). While further policy and technical work will be required to consider how best to structure a risk-based approval process, transitioning mature designs to regulations would be the first step in a risk-based certification approach.

Opportunity 5d: Increase the potential for innovation

Recommendation:	Amend the HVNL to provide an avenue for the NHVR to introduce extra vehicle standards, outside those currently provided for in section 28 of the <i>Heavy Vehicle (General) National Regulation</i>, subject to compliance with interim or developing standards. The amendment should also establish an ongoing process for the timely development and approval of interim or developing standards.
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There is broad acknowledgement by industry and regulators that the PBS scheme has matured and the PBS standards are approaching the limits of their potential to deliver innovation and productivity benefits. To enable the scheme to continue to deliver innovation, a broader range of vehicle standards requirements that can be met through the performance based standards is needed.

The NHVR proposes introducing amendments that would provide an avenue for industry and the NHVR to trial new innovation. Under such an approach, the NHVR could work with industry to develop, test and refine new draft standards. Once matured, these standards could then be transferred to the approved PBS standards and HVNL list of prescriptive requirements that can be exempted through legislative amendment.

Such an approach would not be novel within the HVNL, considering the NHVRs ability to facilitate experimental and prototype vehicles in the vehicle standards^[1] functions.

Example

Previously, industry indicated their interest in developing PBS prime mover semitrailer combinations that include semitrailers with more than one axle group (which could not be approved under the current PBS Scheme).

The NHVR saw merit in the industry proposal, applying a trial/developmental process (combining PBS and vehicle standards functions), to begin development of the necessary standards and allow these types of vehicle to be trialled. The trial and development process was led by the NHVR with oversight from the PBS Review Panel.

Through this process, the NHVR has been able to develop a mature draft performance based standard that applies to semitrailers with more than one axle group.

While this has been a positive outcome for industry, there was added complexity and significant administrative delays involved due to the need for the NHVR to use vehicle standards powers under the HVNL. This process is not administratively efficient process for the NHVR or industry or does it operate under a defined policy process intended to lead to regulatory reform.

^[1] Sections 62(1)(a)(ii) and 70(1)(a)(ii), *Heavy Vehicle National Law*

Opportunity 5e: Provide PBS Review Panel with increased strategic role**Recommendation:**

The HVNL be amended to remove the operational requirements of the PBS Review Panel and enable the Panel to focus on policy and strategic matters.

The PBS application process in the HVNL requires the NHVR to refer each PBS application for technical design approval to a PBS Review Panel (the Panel) made up of an independent chair, deputy chair and representatives of the Directors-General of each state, territory and the Commonwealth. This approval is not however binding on the NHVR when making a decision on an application.

Since assuming responsibility for the PBS scheme, the NHVR has demonstrated that it has the technical expertise to administer the scheme effectively. The PBS fleet has grown at a rapid pace since 2013, with over 9,000 PBS units approved as at June 2019. A large range of PBS combination types are also already 'pre-approved', which means more than 90 per cent of design approvals received by the NHVR are issued without individual assessment by the Panel.

Going forward, the NHVR believes the Panel could play a more significant role in ensuring the strategic goals of the scheme are met, this would mean changing the focus from a technical nature to ensuring safer and more productive vehicles are better recognised on freight networks.

Vehicle Safety

Opportunity 6: Ability for the NHVR to address safety issues relating to manufacturers and repairers

Recommendation:

Amend the HVNL to provide the NHVR with investigative powers in respect of manufacturers and repairers, including the power to require information and documents, provide appropriate protections for witnesses, offences for non-compliance and regulatory tools for compliance.

Amend the HVNL to authorise the NHVR to publish safety information about manufacturers, products and repairers.

While the HVNL does not provide a head of power for conducting safety investigations, the NHVR has a statutory mandate for improving safety and for identifying and promoting best practice to the heavy vehicle industry. The NHVIM, registered codes of practice, vehicle standards bulletins and general guidance material are some of the ways that NHVR achieves this aim.

Chapters 9 and 10 of the HVNL empower the NHVR to enforce compliance with the law by drivers and parties in the chain of responsibility (CoR). However there is a fundamental aspect of heavy vehicle safety that is currently beyond the scope of the NHVR's powers, and that is the activities of vehicle manufacturers and mechanics.

Responsible Ministers have previously rejected a proposal to include vehicle manufacturers and mechanics in the definition of a party in the chain of responsibility. The Australian Consumer Law (ACL) ordinarily should fill the gap however that legislation is largely ineffective. For instance, the remedies available under Part 3-3 and Part 4-3 of the ACL – such as recalls, safety warning notices, and related notices - are not available for heavy vehicles in relation to manufacturers. This gap will persist until the commencement of relevant provisions of the *Road Vehicle Standards Act 2018 (Cth)*.

The NHVR has the broadest access to data and industry information about heavy vehicle safety related issues, through its employees and stakeholders, including vehicle manufacturers, and via the Heavy Vehicle Confidential Reporting Line. It also has the technical expertise and regulatory experience to identify patterns from unconnected incidents and to isolate causes and lead indicators of safety problems. For these reasons, the Regulator is best placed to intervene early to investigate, identify and mitigate risks to public safety. However, because the activities of manufacturers and repairers are not regulated by the HVNL, the NHVR's investigative powers cannot be directly used to identify the causes of emerging safety risks.

Consideration should be given to conferring investigative powers on suitably qualified NHVR officers; including the power to compel the production of documents and compel persons to answer questions; and providing the ability to investigate safety issues relating to the manufacture, maintenance or repair of heavy vehicles and their components. Those powers should be paired with appropriate safeguards and protections for persons compelled to provide information and penalties for non-compliance. Further, the HVNL should be amended so that remedies in Chapter 10 could be utilised in respect of manufacturers and repairers to reduce risks to public safety.

Additionally, clear statutory authority for the NHVR to publish safety information or advice derived from an investigation would empower the Regulator to make best use of its findings, without fear of legal action.

Opportunity 7: Adopt a risk-based approach to defects to reflect the severity of the defect and encourage industry to self-manage non-compliances.

Recommendation:

Amendments to the defect notice provisions in the HVNL should reflect the nature of the non-compliances being managed and allow operators to manage the risks associated with a defective vehicle.

The HVNL takes a rigid approach to the management of defective vehicles. The HVNL relies on a general offence-based obligation on operators and drivers (rather than a risk-based approach) to not operate a defective vehicle.

Currently, authorised officers issue defect notices (with or without appropriate conditions to manage the risk posed by non-compliances), and remove vehicles from use that are considered unsafe or where the continued use of the vehicle poses an unacceptable risk. Only an authorised officer (after inspecting the vehicle) can impose conditions that allow non-compliant vehicles to continue to be used on a road. The defect framework in most instances then requires the heavy vehicle operator to present the vehicle to jurisdictions or a third party to have the defect notice cleared.

A more effective and timely approach would be achieved by adopting a risk-based model, which better shares the responsibility between the authorised officer and the transport operator. The operator would be responsible for undertaking a pre-trip check of the vehicle and to identify any non-compliances, as well as apply (where appropriate) operating conditions to manage the safety risk. The operator would then be responsible for ensuring the defect is rectified and provide notification to the NHVR.

For instance, the NHVR understands some companies have a particular day of the week where an external provider attends to repair or replace certain components; such as windscreens. In the case of a small windscreen crack that does not create any visual disturbances or pose any safety risks, the operator would apply appropriate conditions to the use of the vehicle and enable it to continue being used on the road until the windscreen can be repaired or replaced.

The NHVR has commenced a package of work to determine what best practice for managing non-compliant vehicles in Australia would look like. The scope of the project includes a future state model for managing non-compliant vehicles and a road map to implement it.

Administrative improvements

Opportunity 8: Improve the use of definitions to help make the HVNL easier to interpret and apply

Recommendation:	That definitions be reviewed and amended, to align with corresponding legislation (i.e. MVSA and ADRs) and adopt a consistent 'top down' structure for applying definitions.
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The vehicle standards requirements in the HVNL interact with a number of other pieces of legislation, including the *Motor Vehicle Standards Act 1989* (Cth)¹ (MVSA) and the *Australian Design Rules* (ADRs)².

For the most part, the technical aspects of vehicle standards are regulated and described using terms and concepts established in the MVSA and ADRs (legislation that applies to vehicles when they are manufactured). However, the application of some terms and concepts in the HVNL is at odds with their use in the MVSA and ADRs. While in many cases the variance tends to be minor, they increase complexity for those attempting to apply the law and create unclear requirements for industry.

Additionally, there is an inconsistent approach to the structure of definitions within the HVNL. Some terms used in the Act are defined only in a regulation; some terms used in a regulation are defined in a separate regulation and some terms are used in one regulation in a way that is inconsistent with their definition or use in another regulation. This is confusing and challenging to navigate and makes the legislation more difficult to interpret and apply.

Opportunity 9: Reduce the duplication of common processes

Recommendation:	Reduce duplication by applying one standard provision (rather than multiple provisions) for common processes, such as the approval, amendment and cancellation of permits and notices as well as show cause processes.
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In the HVNL, there are a number of common processes applied across a range of functions. For example, the ability to issue permits and notices (authorities) applies to the vehicle standards, access and fatigue functions. However, the provisions for issuing each instrument are repeated in each chapter of the HVNL.

For the most part, the general structure of each of these processes is the same but there are some minor differences in each. While some of these differences are intentional, for example the requirement for road manager consent for access exemptions, repeating the common elements is inefficient and can result in unintended inconsistencies.

Example

A simplified approach has been taken by some jurisdictions. An example of this is the *Transport Operations (Road Use Management) Act 1995 (Qld)*³ where the process for granting, amending, suspending and cancelling of all approvals under that Act is contained in one provision.

This approach provides consistency for regulated entities and creates administrative efficiencies for the regulator.

¹ <https://www.legislation.gov.au/Details/C2016C00857>

² https://www.infrastructure.gov.au/vehicles/design/adr_online.aspx

³ <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1995-009>